Notice of Allowability	Application No.	Applicant(s)	
	09/590,284	GOLDENBERG ET AL.	
	Examiner	Art Unit	
	ILIA OUSPENSKI	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *03/28/2005, 04/06/2005, 06/03/2005, 06/07/2005, and 06/08/2005*.

2. ☒ The allowed claim(s) is/are *39 – 43, 45 – 50, 52 – 53, 75 – 76, and 107 – 111, renumbered 1 - 20*.

3. ☐ The drawings filed on _____ are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

 * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

 Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date *06/08/2005*.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

S.e.o

DETAILED ACTION

1. Applicant's amendments, filed 03/28/2005, 04/06/2005, 06/03/2005, and 06/07/2005, are acknowledged.

Claims 44, 51, 54 – 74, and 77 – 80 have been cancelled.

Claims 1 – 38 and 81 – 106 have been cancelled previously.

Claims 107 – 111 have been added.

Claims 39, 41, 43, 45, 47, 48, 50, 53, 75, 76, 108, and 111 have been amended.

Claims 39 – 43, 45 – 50, 52 – 53, 75 – 76, and 107 – 111 are pending.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 39 – 43, 45 – 50, 52 – 53, 75 – 76, and 107 – 111 are subject to a provisional rejection under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 30 of copending Application USSN 10/350,096. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to methods of treating autoimmune disorders by administering anti-CD22 antibodies alone or in combinations with secondary therapeutics. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Given that the provisional obviousness-type double patenting rejection over copending USSN 10/350,096 is the only rejection remaining in the instant application, this ***rejection is withdrawn*** to permit the instant application to issue first. See MPEP 804.

4. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

5. Authorization for this Examiner's Amendment was given in a telephone interview with Shawnmarie Mayrand-Chung, on behalf Paul M. Booth, on 06/08/2005.

Examiner's Amendment

In the Claims:

6. In claim 45, the word "pamphigus" has been replaced with -- pemphigus -- .

Reasons for Allowance

7. The following is an Examiner's Statement of Reasons for Allowance:

The Examiner's Amendment set forth supra, in conjunction with Applicant's amendments and arguments, filed 03/28/2005, 04/06/2005, 06/03/2005, and 06/07/2005, and declaration filed under 37 CFR1.132 by Dr. Don L. Siegel on 04/06/2005, have obviated the previous rejection of record, mailed 12/27/2004.

Claims 39 – 43, 45 – 50, 52 – 53, 75 – 76, and 107 – 111 are pending and allowed.

The prior art does not teach or suggest the claimed methods of treating autoimmune disorders by administering anti-CD22 antibodies alone or in combinations with secondary therapeutics.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ILIA OUSPENSKI
Patent Examiner
Art Unit 1644

June 8, 2005

PHILLIP GAMBEL, PH.D
PRIMARY EXAMINER
TECH CENTER 1600
6/9/05